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In re Application of :
GUIDRY, Floyd *et al* :
U.S. Application No.: 10/517,985 :
PCT No.: PCT/US03/19235 :
Int. Filing Date: 17 June 2003 :
Priority Date: 17 June 2002 :
Attorney Docket No.: 937-1512 :
For: METHOD FOR SCALE REMOVAL :

DECISION

This decision is in response to applicants' "Petition Under Rule 47" filed 18 August 2005 which has been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 05 July 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 18 August 2005, applicants filed the instant petition which was accompanied by, *inter alia*, a declaration signed by one of the two joint inventors; a declaration by Lori Hass ("Hass Decl."); a declaration of Linda Komorowski ("Komorowski Decl."); a petition fee of \$130.00; and authorization to charge any required fees to Deposit Account No. 14-1140.

DISCUSSION

In response to the Form PCT/DO/EO/905, applicants filed the petition under 37 CFR 1.47(a) claiming that one of the joint inventors, William H. Kampen, cannot be located after a diligent effort.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to \$200.00

of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions . . .

In this case, petitioners have not provided any documentary evidence to substantiate their claims. Copies of documents from the Federal Express delivery were not provided. Copies of the internet search were similarly not submitted. These documents are required to substantiate petitioners' claims.

Moreover, petitioners should have followed up to determine if the person named William H. Kampen found using the internet search was the inventor in the above-captioned application. A letter would have sufficed. These efforts are not extraordinary and are required to meet the 'diligent effort' standard needed. For these reasons, item (2) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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